

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN THOMPSON BEY,
Plaintiff,

CIVIL ACTION NO. 07-CV-10919-DT

vs.

DISTRICT JUDGE DAVID M. LAWSON

RICHARD STAPLETON,
et al.,
Defendants.

MAGISTRATE JUDGE MONA K. MAJZOUB

_____ /

ORDER TO SUPPLEMENT
AND
ORDER GRANTING MOTION TO STAY DISCOVERY
AND
ORDER DENYING MOTION FOR DISCOVERY

This matter comes before the Court on several motions. Plaintiff is a Michigan state prisoner who alleges in this action pursuant to 42 U.S.C. § 1983 that Defendants violated his due process rights in connection with a prison disciplinary proceeding. (Docket no. 1). Three of the Defendants have moved to dismiss the action as to them on the ground that the action is barred by the statute of limitation. (Docket no. 17). In addition, Plaintiff has filed a Motion for Discovery (docket no. 20), and Defendants have filed a Motion to Stay Discovery (docket no. 26). The parties have responded to all motions. The action has been referred to the undersigned for pretrial proceedings. (Docket no. 24). The discovery motions are now ready for ruling.

A ruling on Defendants' Motion to Dismiss may end this action as to all Defendants. However, there is an underlying factual issue which must be addressed before a ruling on the Motion to Dismiss is made. This issue is a determination of the date that Plaintiff placed his Complaint in the prison mailbox for mailing to the court clerk's office. Accordingly, Defendants will be ordered to supplement their motion with evidence establishing this date, such as by submitting copies of the prison mail log

if one exists. Plaintiff may respond to Defendants' supplement by submitting whatever evidence he may have showing this date. The Court will then rule on Defendants' Motion to Dismiss.

In the meantime, because a ruling on the Motion to Dismiss may end this action, the Court finds it prudent to stay any other discovery pending a ruling on Defendants' Motion to Dismiss. *See* Fed. R. Civ. P. 26(c). Accordingly, the Court will grant Defendants' Motion to Stay Discovery and deny Plaintiff's Motion for Discovery. If a ruling on Defendants' Motion to Dismiss does not result in the dismissal of the action, this Court will reconsider Plaintiff's Motion for Discovery.

IT IS THEREFORE ORDERED that on or before January 30, 2008 Defendants supplement their Motion to Dismiss as set out above. Plaintiff may respond to this supplement within ten days of the date that Defendants file their supplement.

IT IS FURTHER ORDERED that Plaintiff's Motion for Discovery (docket no. 20) is **DENIED**.

IT IS FURTHER ORDERED that Defendants' Motion to Stay Discovery (docket no. 26) is **GRANTED** as set out above.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: January 16, 2008

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this order was served upon John Thompson Bey and Counsel of Record on this date.

Dated: January 16, 2008

s/ Lisa C. Bartlett
Courtroom Deputy